

STATEMENT OF SCOPE

Department of Commerce

Rule No. : Chapters Comm 60 and Comm 20-21

Relating to : Erosion Control for the Construction of Buildings

1. Description of the objective of the rule.

Under s. 101.1205, Stats., the Department of Commerce is to establish statewide standards for erosion control at building sites for the construction of public buildings and places of employment. Under s. 101.653, Stats., the Department of Commerce is to establish standards for erosion control at building sites for the construction of one- and 2-family dwellings.

Both the United States Environmental Protection Agency and the Wisconsin Department of Natural Resources have recently revised standards that affect erosion control for construction projects disturbing one acre or more. The purpose of revising chapters Comm 60 and Comm 20 and 21 is to coordinate and revise Commerce erosion control standards in light of these other agencies' updates.

2. Description of existing policies relevant to the rule and of new policies proposed to be included in the rule and an analysis of policy alternatives.

Chapters Comm 61 to 65, Wisconsin Commercial Building Code, contain the Department's requirements for the design, construction, maintenance, and inspection of public buildings and places of employment. The code includes minimal erosion control requirements for sites that disturb 5 or more acres of land at a commercial building construction site. The rules require the development and the implementation of erosion control plans for such sites.

The erosion control rules under chapters Comm 20-21 for one- and 2-family dwellings were adopted in 1992 and have not been revised since 1997.

The only feasible alternative at this point in time would be a temporary delay in the rule-making process. A delay would potentially place building owners in a state of confusion with standards of various agencies that are not coordinated.

3. Statutory authority for the rule.

Sections 101.02 (1), 101.1205 (1), and 101.653 (2), Stats.

4. Estimate of the amount of time that state employees will spend to develop the rule and of other resources necessary to develop the rule.

The Department estimates approximately 300 hours will be needed to develop the rule revisions. This time includes drafting the revisions – in consultation with the Uniform Dwelling Code Council, the Multifamily Dwelling Code Council and the Commercial Building Code Council – and processing the changes through public hearings, legislative review, and adoption. The Department will assign existing staff to develop the rule revisions. Other than reimbursement of incidental transportation and meal expenses for some of the council members, no additional resources will be needed.

5. Description of all of the entities that will be affected by the rule.

The proposed rules would affect any person or entity that is involved with a land-disturbing activity under taken in conjunction with the construction of any of the following:

- A new one- or 2-family dwelling.
- A modification to an existing one- or 2-family dwelling the initial construction that was started on or after June 1, 1980.
- A new commercial building that serves as a public building or place of employment.
- A modification to an existing commercial building.

6. Summary and preliminary comparison of any existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

Under the Federal Clean Water Act the Environmental Protection Agency has established erosion control regulations, 40 CFR Parts 9, 122, 123 and 124, for land disturbing activities involving one or more acres at construction sites. The regulations establish a permitting process under the National Pollutant Discharge Elimination System, NPDES, that may be implemented by state jurisdictions. The regulations require the design, implementation and maintenance of best management practices to improve water quality by reducing pollutants in storm water runoff.

The Department of Natural Resources under ch. NR 216 implements the EPA permitting process mandate in Wisconsin. Under s. NR 216.42(3), the Department of Natural Resources recognizes commercial building construction falling under Department of Commerce rules as complying with the Wisconsin Pollutant Discharge Elimination System permitting. That recognition in turns helps to achieve the state's implementation of the EPA permitting process for construction site erosion control.

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DEPARTMENT OF COMMERCE

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DEPARTMENT OF COMMERCE

Cory L. Nettles, Secretary

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